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Attorneys for The Highland Funds

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725-LBR

Date: October 19, 2006

Time: 9:30 a.m.

Place: Courtroom #1

**DECLARATION OF
DAVIS DEADMAN**

1 STATE OF TEXAS §
2 §
3 COUNTY OF DALLAS §
4

5 Before me, the undersigned authority, personally appeared Davis Deadman, who, being
6 by me duly sworn, deposed as follows:
7

8 1. My name is Davis Deadman. I am of sound mind, over the age of twenty-one
9 (21), and I am fully competent to execute this Affidavit. I have never been convicted of a felony
10 or a crime involving moral turpitude. The matters stated herein are true and correct and within
11 my personal knowledge.

12 2. I was the Senior Portfolio Manager at Highland Capital Management, L.P.
13 ("Highland"). Highland is a registered investment advisor specializing in credit and special
14 situation investing. Highland is the investment advisor for Prospect High Income Fund, ML
15 CBO IV Ltd., Pamco Cayman, Ltd., Pam Capital Funding, L.P., Highland Crusader Fund, Ltd.,
16 and PCMG Trading Partners XXIII, L.P. (the "Highland Funds").

17 3. I was the portfolio manager that oversaw and directed the Epic Resorts investment
18 on behalf of the Highland Funds and the Highland Funds' involvement in the bankruptcy of Epic
19 Resorts and all related litigation. As such, I have personal knowledge related to, among other
20 things, Epic Resorts, the Highland Funds' investment in Epic Resorts, the bond offering by Epic
21 Resorts, the bankruptcy of Epic Resorts, litigation related to Epic Resorts, and the Palm Springs
22 property. Additionally, I have extensive experience evaluating and purchasing real estate.

23 4. On July 8, 1998, Epic Resorts, a holding company that owns and operates
24 multiple subsidiaries, which in turn operate timeshare vacation resorts, issued \$130 million
25 aggregate principal amount of Senior Secured Redeemable Notes due in 2005 pursuant to an
26 indenture dated July 8, 1998, as supplemented (the "Indenture"). Over time, the Highland Funds
27 purchased approximately \$93.767 million of the Bonds. (A true and correct copy of the Indenture
28 is attached to the Bob L. Olson Declaration as Exhibit 4).

1 5. The Indenture contained three critical provisions. First, Epic Resorts was
2 prohibited from borrowing additional funds. Specifically, Section 4.9 of the Indenture,
3 Limitation on Indebtedness, states "the Company shall not, and shall not permit any of its
4 Restricted Subsidiaries to, Incur any Indebtedness. . . ." Second, Epic Resorts would not
5 encumber the Properties in favor of anyone else. Specifically, Section 4.12 of the Indenture,
6 Limitation on Liens, states, "[Epic Resorts] will not and will not permit any Restricted
7 Subsidiary to, directly or indirectly, create or permit to exist any Liens on any of its assets except
8 for Permitted Liens." Third, the bondholders would get the benefit of a lien on the Properties.

9 6. Trust Deed Fund and Epic Resorts entered into a transaction whereby Trust Deed
10 Fund would loan money to Epic Resorts and Trust Deed Fund would be granted a priority lien on
11 the Palm Springs property. The loan closed on or about June 26, 2000.

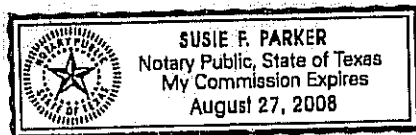
12 7. Pursuant to the Bonds and the Indenture, Epic Resorts was required to make semi-
13 annual payments on June 15 and December 15 of each year. On June 15, 2001, Epic Resorts did
14 not make the required interest payment in the amount of \$8,450,000. The grace period for this
15 interest payment expired on July 15, 2001. On July 17, 2001, the bond trustee, on behalf of the
16 bondholders, declared that an event of default existed under the Indenture and accelerated the
17 entire amount due and owing under the Indenture and the Bonds. To date, the interest payment
18 and the accelerated amount have not been paid in full.

19 8. Plaintiffs were hindered in their ability to recover the money they loaned to Epic
20 Resorts because of Trust Deed Fund's lien. In direct interference with the proper execution of
21 the Indenture's provisions, Trust Deed Fund entered into a "deed-in-lieu of foreclosure" with
22 respect to the Palm Springs property. Among other things, Trust Deed Fund obtained an
23 assignment of all leasehold and personal property located at the Palm Springs resort to Trust
24 Deed Fund. Additionally, sixty-three unsold timeshare units remained at the Palm Springs resort.
25 These sixty-three unsold units comprised almost half of the entire inventory of unsold units at all
26 of the resorts owned by Epic Resorts. Trust Deed Fund transferred ownership of the sixty-three
27 unsold timeshare units and all other personal property located in the Palm Springs property to
28 itself.

This concludes my affidavit testimony.


DAVIS DEADMAN

19 SUBSCRIBED AND SWORN TO before me, the undersigned notary public, on this
20 22 day of October, 2006, to certify which witness my hand and seal of office.



Livian S Parker
Notary Public in and for the State of Texas